

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LATOYIN V. DAVIS,

Plaintiff,

vs.

SPENCER D. GROSS, DOMINO'S
PIZZA, LLC, and SEDGWICK CLAIMS
MANAGEMENT SERVICES, INC.,

Defendants.

8:23CV548

FINDINGS AND RECOMMENDATION

This action was filed on December 14, 2023. [Filing No. 1](#). On December 27, 2023, Plaintiff requested summons for Defendants Spencer Gross, Domino's Pizza and AON Risk Insurance and those summonses were issued. [Filing No. 5](#). On February 14, 2024, a summons returned unexecuted as to defendant AON Risk was filed. [Filing No. 7](#). Thereafter, Plaintiff amended his complaint and named Sedgwick Claims Management Services, Inc. as a named defendant. Filing Nos. 11 and 12. A summons was issued for Sedgwick Claims Management Services, Inc. on February 28, 2024. [Filing No. 14](#). On June 18, 2024, The Court issued an Order to Show Cause directing plaintiff to show cause why this case should not be dismissed pursuant to [Federal Rule of Civil Procedure 4\(m\)](#). [Filing No. 16](#)

On June 21, 2024, Plaintiff filed a motion for summary judgment, declaration of facts, and brief in support of his motion for summary judgment. [Filing Nos. 17, 18, and 19](#). Upon review of the filings, the Court construed them to be a response

to the Order to Show Cause. Attached to his filings, Plaintiff purported to show he perfected service on the named defendants via certified mail. However, various defects in service still existed.

On July 8, 2024, Plaintiff filed a “request to resubmit summons[es] on defendants in person” and supporting facts. [Filing Nos. 20](#) and [21](#). The Court considered these filings as a motion to extend time to provide service under [Federal Rule of Civil Procedure 4](#) and granted Plaintiff’s request, giving him until August 22, 2024, to perfect service. [Filing No. 22](#).

On July 30, 2024, Plaintiff filed a “declaration,” [Filing No. 25](#), and three return summonses, [Filing Nos. 26, 27](#), and [28](#), again purporting to show service. Despite Plaintiff’s efforts, he again did not properly serve all Defendants. [Filing No. 29](#). The Court ordered Plaintiff to perfect service on or before October 14, 2024. *Id.*

Defendants Domino’s Pizza, LLC and Sedgwick Claims Management Services, Inc. have now filed responsive pleadings. See [Filing Nos. 31](#) and [38](#). A return summons illustrating service has not been executed on Defendant Spencer Gross has also been filed. [Filing No. 40](#).

Despite various efforts and extensions of time, Plaintiff has not properly served Defendant Spencer D. Gross.

Accordingly,

IT THEREFORE HEREBY IS RECOMMENDED to the Honorable Robert F. Rossiter, Jr., United States District Judge, pursuant to 28 U.S.C. § 636(b), that Plaintiff’s claims against Defendant Spencer D. Gross be dismissed pursuant to Federal Rule of Civil Procedure 4(m).

The parties are notified that failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation.

Dated this 13th day of November, 2024.

BY THE COURT:

s/ Jacqueline M. DeLuca

United States Magistrate Judge